

AMENDED IN ASSEMBLY MAY 10, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

Assembly Constitutional Amendment

No. 19

Introduced by Assembly Member Allen

March 25, 2011

Assembly Constitutional Amendment No. 19—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 8 of Article II thereof, relating to initiatives.

LEGISLATIVE COUNSEL’S DIGEST

ACA 19, as amended, Allen. Initiatives.

The California Constitution provides voters, through the initiative, the power to propose statutes and constitutional amendments and to adopt or reject them. An initiative measure may be proposed by presenting the Secretary of State a certified petition signed by electors equal in number to 5% in the case of a proposed statute, and 8% in the case of a proposed constitutional amendment, of the votes for all candidates for Governor at the last gubernatorial election. The Secretary of State is required to submit an initiative measure at the next general election held at least 131 days after it qualifies or at a special statewide election held prior to that general election.

This measure would require the Secretary of State immediately to transmit each certified initiative measure to the Legislature.

This measure would provide that if an initiative measure transmitted to the Legislature, or a part of the measure, proposes an amendment to the Constitution, the Legislature may amend the measure or the part of the measure that proposes an amendment to the Constitution and adopt it as a legislative constitutional amendment by concurrent resolution,

$\frac{2}{3}$ of the membership of each house concurring, within 30 legislative session days after the transmittal of the initiative measure to the Legislature *and not less than 131 days prior to the next general election*. If the proponent or a majority of the proponents of the initiative measure accepts the legislative constitutional amendment in lieu of the initiative measure or the part of the measure that proposes an amendment to the Constitution, and the Attorney General determines that the legislative constitutional amendment furthers the purposes of the initiative measure, the initiative measure or the part of the measure that proposes a constitutional amendment would not be submitted to the electors and the legislative constitutional amendment instead would be submitted to the electors.

This measure would also provide that if an initiative measure transmitted to the Legislature, or a part of the measure, proposes a statute, the measure or the part of the measure that proposes a statute may be introduced in the Legislature as a bill. If the bill is enacted as a statute within 30 legislative session days after the transmittal of the initiative measure to the Legislature *and not less than 131 days prior to the next general election*, and the proponent or a majority of the proponents of the initiative measure accepts the bill as enacted, and the Attorney General determines that the bill as enacted furthers the purposes of the initiative measure, the initiative measure or the part of the measure that proposes a statute would not be submitted to the electors. The Legislature would be authorized to amend or repeal a statute that is enacted in lieu of an initiative measure 6 years or later from its effective date. In addition, the Legislature would be authorized to amend or repeal the statute at any time by another statute passed by a $\frac{2}{3}$ vote or by another statute that is submitted to the voters for approval.

The measure would provide, as to an initiative measure that proposes both a constitutional amendment and a statute, that the alternatives described above are applied to both the constitutional and statutory elements, or neither.

This measure would require the Legislature to return an initiative measure to the Secretary of State within 30 legislative *session* days, as defined, *and not less than 131 days prior to the next general election* or it would be deemed to have been returned in the same form as originally submitted by the proponents of the initiative measure. A returned initiative measure would be submitted at the next general election that is held at least 150 days after the date the initiative measure

qualifies or at any special statewide election held prior to that general election, unless a legislative constitutional amendment is passed or a statute is enacted in lieu of the initiative measure, or unless the proponent or a majority of the proponents of the initiative measure withdraws the initiative measure not later than 90 days prior to the date of the election.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2011–12 Regular
3 Session commencing on the sixth day of December 2010,
4 two-thirds of the membership of each house concurring, hereby
5 proposes to the people of the State of California that the
6 Constitution of the State be amended as follows:

7 That Section 8 of Article II thereof is amended to read:

8 SEC. 8. (a) The initiative is the power of the electors to
9 propose statutes and amendments to the Constitution and to adopt
10 or reject them.

11 (b) An initiative measure may be proposed by presenting to the
12 Secretary of State a petition that sets forth the text of the proposed
13 statute or amendment to the Constitution and is certified to have
14 been signed by electors equal in number to 5 percent in the case
15 of a statute, and 8 percent in the case of an amendment to the
16 Constitution, of the votes for all candidates for Governor at the
17 last gubernatorial election.

18 (c) Upon certification of an initiative measure pursuant to
19 subdivision (b), the Secretary of State immediately shall transmit
20 the measure to the Legislature.

21 (d) If an initiative measure transmitted to the Legislature
22 pursuant to subdivision (c), or a part of that measure, proposes an
23 amendment to the Constitution, the Legislature may amend the
24 measure or the part of the measure that proposes an amendment
25 to the Constitution and may pass the amended form of the measure
26 as a legislative constitutional amendment by concurrent resolution,
27 two-thirds of the membership of each house concurring, within 30
28 legislative *session* days after the transmittal of the initiative
29 measure to the Legislature *and not less than 131 days prior to the*
30 *next general election.* If the proponent, or a majority of the
31 proponents, if applicable, of the initiative measure accepts the

1 legislative constitutional amendment in lieu of the initiative
2 measure or the part of the measure that proposes an amendment
3 to the Constitution, and so informs the Secretary of State, and the
4 Attorney General determines that the legislative constitutional
5 amendment furthers the purposes of the initiative measure, the
6 initiative measure or the part of the measure that proposes a
7 constitutional amendment shall not be submitted to the electors
8 and the legislative constitutional amendment instead shall be
9 submitted to the electors.

10 (e) If an initiative measure transmitted to the Legislature
11 pursuant to subdivision (c), or a part of that measure, proposes a
12 statute, the measure or the part of the measure that proposes a
13 statute may be introduced in the Legislature as a bill. If the bill,
14 including any amendments adopted by the Legislature, is enacted
15 as a statute within 30 legislative session days after the transmittal
16 of the initiative measure to the Legislature *and not less than 131*
17 *days prior to the next general election* and the proponent, or a
18 majority of the proponents, if applicable, of the initiative measure
19 accepts the bill as enacted, and so informs the Secretary of State,
20 and the Attorney General determines that the bill as enacted
21 furthers the purposes of the initiative measure, the bill shall take
22 effect in accordance with this Constitution and, notwithstanding
23 subdivision (c) of Section 10, the initiative measure or the part of
24 the measure that proposes a statute shall not be submitted to the
25 electors. The Legislature may amend or repeal a statute enacted
26 pursuant to this subdivision by another statute that takes effect not
27 sooner than six years from the date the statute enacted pursuant to
28 this subdivision takes effect. In addition, the Legislature at any
29 time may amend or repeal a statute enacted pursuant to this
30 subdivision by another statute passed with two-thirds of the
31 membership of each house concurring, or by another statute that
32 becomes effective only when approved by the electors.

33 (f) If an initiative measure that is transmitted to the Legislature
34 pursuant to subdivision (c) proposes both an amendment to the
35 Constitution and a statute, both of the following apply:

36 (1) Unless the conditions of subdivision (d) that would cause
37 the constitutional amendment portion of the initiative measure not
38 to be submitted to the electors are satisfied, subdivision (e) shall
39 not apply to the statutory portion of the initiative measure.

1 (2) Unless the conditions of subdivision (e) that would cause
2 the statutory portion of the initiative measure not to be submitted
3 to the electors are satisfied, subdivision (d) shall not apply to the
4 constitutional amendment portion of the initiative measure.

5 (g) (1) The Legislature shall return an initiative measure, unless
6 a legislative constitutional amendment is passed or a statute is
7 enacted, or both, in lieu of the initiative measure as provided in
8 subdivisions (d), (e), and (f), to the Secretary of State within 30
9 legislative session days after the measure is transmitted to the
10 Legislature *and not less than 131 days prior to the next general*
11 *election*. If the measure is not returned within 30 legislative session
12 days *and not less than 131 days prior to the next general election*,
13 it shall be deemed to have been returned in the same form as it
14 was initially presented to the Secretary of State.

15 (2) The Secretary of State shall then submit the measure at the
16 next general election held at least 150 days after it qualifies or at
17 any special statewide election held prior to that general election,
18 except as provided in subdivisions (d) and (e), or unless the
19 proponent, or a majority of the proponents, if applicable, of the
20 initiative measure withdraws the measure not later than 90 days
21 prior to the date of the election at which the measure is scheduled
22 to be submitted to the electors, and so informs the Secretary of
23 State. The Governor may call a special statewide election for the
24 measure.

25 (h) An initiative measure embracing more than one subject may
26 not be submitted to the electors or have any effect.

27 (i) An initiative measure may not include or exclude any political
28 subdivision of the State from the application or effect of its
29 provisions based upon approval or disapproval of the initiative
30 measure, or based upon the casting of a specified percentage of
31 votes in favor of the measure, by the electors of that political
32 subdivision.

33 (j) An initiative measure may not contain alternative or
34 cumulative provisions wherein one or more of those provisions
35 would become law depending upon the casting of a specified
36 percentage of votes for or against the measure.

- 1 (k) For purposes of this section, “legislative session day” means
- 2 a day on which the Members of both houses of the Legislature are
- 3 required to be in Sacramento to attend a session of the Legislature.